



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Vicky Howard
C/o Deirdre Woodrow
O'Gorman Architectural Services
4 Showgrounds view, Ennis
Co. Clare
V95 W27H**

12th November 2024

Section 5 referral Reference R24-81 – Vicky Howard

Are the 2 no. Velux windows (rooflights) that have been installed (one front & one rear) considered development and if so, are they exempted development?

A Chara,

I refer to your application received on 16th October 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie

Mise, le meas

**Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate**

CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No: 84453

Reference Number: R24-81

Date Referral Received: 16th October 2024

Name of Applicant: Vicky Howard

Location of works in question: 13 Garden View, Clarecastle, Co. Clare,
V95 E5FN

Section 5 referral Reference R24-81 – Vicky Howard

Are the 2 no. Velux windows (rooflights) that have been installed (one front & one rear) considered development and if so, are they exempted development?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) The works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The installation of 2 no. velux windows in the curtilage of a dwellinghouse constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute “development” which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The said development the 2 no. velux windows is exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Kieran O'Donnell, Administrative Officer, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Kieran O'Donnell, Administrative Officer, hereby declare that the construction of 2 no. velux windows installed in the front and

rear of the existing dwelling at 13 Garden View, Clarecastle, Co. Clare is considered development which is exempted development.

Signed:


KIERAN O'DONNELL
ADMINISTRATIVE OFFICER 

Date:

12th November 2024

DECLARATION ISSUED UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)

Reference No.: R24-81



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R24-81

Are the 2 no. Velux windows (rooflights) that have been installed (one front & one rear) considered development and if so, are they exempted development?

AND WHEREAS, Vicky Howard has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) The installation of 2 no. velux windows in the curtilage of a dwellinghouse constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The said development the 2 no. velux windows is exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the construction of 2 no. velux windows installed in the front and rear of the existing dwelling at 13 Garden View, Clarecastle, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.


Anne O'Gorman

Staff Officer
Planning Department

Economic Development Directorate

12th November 2024

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

| | |
|----------------------|---|
| FILE REF: | R24-81 |
| APPLICANT(S): | Vicky Howard, C/O Deirdre Woodrow O’Gorman Architectural Services |
| REFERENCE: | Are the 2 no. velux windows (rooflights) that have been installed (one front & one rear) considered development, and if so, is it exempted development? |
| LOCATION: | 13 Garden View, Clarecastle, Co Clare, V95 E5FN |
| DUE DATE: | 12 th November 2024 |

Site Location

The subject site is located in Clarecastle on lands zoned ‘Existing Residential’. The site is located at no. 13 Garden View, a residential estate to the west of Clarecastle town centre. The site comprises a semi-detached residential dwelling located on a corner plot in the residential estate. The site is in the vicinity of a High-Pressure Gas Pipeline Corridor, a Lesser Horseshoe Bat Foraging Range and the Fergus Estuary Landscape Character Area.

It is not located in or near any Architectural Conservation Area, any Protected Structures or Recorded Monuments, or any European Sites.

Recent Planning History

- **14/617** – Woodhaven Development Ltd. – to Extend the Appropriate Period of Planning Permission on P04-1583 to construct (a) 4 No. Detached 2 Storey Houses (b) 68 No. Semi-Detached 2 Storey Houses, (c) 16 No. Semi Detched 2 1/2 Storey Houses (d) 50 No. 2 Storey Terraced Houses (e) 50 No. 2 1/2 Storey Terraced Houses (f) 14 No. 2 Bed Semi Detached Bungalows (g) 6 No. 3 Storey Apt. blocks to consist of 36 No. 2 Bed Apts and 12 No. 3 Bed duplex Apts. (h)1No. 3 Storey Corner Apt. Building to consist of 5 No. 3 Bed Duplex Apts, 9 No. 2 Bed Apts. 6 No. 1 Bed Apts. (i) 8 No. refuse Storage Bldgs. (j) 1 No. ESB Sub-Station. (k) Demolition of 1 No. existing dwelling and outbuildings. (l) Creation of 1 No. Site Entrance and all assoc. works and site services (m) connection of proposed foul drainage to existing drainage system and storm water connection to the River Fergus. **Granted Permission.**
- **06/371** – M. Fitzgibbon Builders Ltd. – to RETAIN 1 no. site entrance and all associated site works. **Granted Permission.**
- **04/1583** – M. Fitzgibbon Builders Ltd. – to construct (a) 4 No. Detached 2 Storey Houses (b) 68 No. Semi-Detached 2 Storey Houses, (c) 16 No. Semi Detched 2 1/2 Storey Houses (d) 50 No. 2 Storey Terraced Houses (e) 50 No. 2 1/2 Storey Terraced Houses (f) 14 No. 2 Bed Semi Detached Bungalows (g) 6 No. 3 Storey Apt. blocks to consist of 36 No. 2 Bed Apts and 12 No. 3 Bed duplex Apts. (h)1No. 3 Storey Corner Apt. Building to consist of 5 No. 3 Bed Duplex Apts, 9 No. 2 Bed Apts. 6 No. 1 Bed Apts.

(i) 8 No. refuse Storage Bldgs. (j) 1 No. ESB Sub-Station. (k) Demolition of 1 No. existing dwelling and outbuildings. (l) Creation of 1 No. Site Entrance and all assoc. works and site services (m) connection of proposed foul drainage to existing drainage system and storm water connection to the River Fergus. **Granted Permission.**

Background to Referral

This referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by the Deirdre Woodrow of O’Gorman Architectural Services C/O Vicky Howard.

The applicants are seeking a Section 5 Declaration as to whether the 2 no. velux windows (rooflights) that have been installed (one front & one rear) considered development, and if so, is it exempted development?

The applicants have stated that the works were carried out in circa 2017. A site inspection carried out on 08/11/2024 confirmed that these velux windows are in place.



Figure 1: Site as inspected on 08/11/2024

I note a previous Section 5 Declaration application was lodged to the Planning Authority on 22/08/2024 seeking confirmation of whether the rear extension, shed and attic conversion works were development and, if so, are they exempted. Further Information was sought from the planning authority on this matter, and to date, a response has not been received.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

In order to assess this proposal, regard has to be had to the *Planning and Development Act 2000, as amended*.

S.3.(1) In this Act, “development” means, except where the context otherwise requires, **the carrying out of any works on, in, over or under land** or the making of any material change in the use of any structures or other land.

‘Works’ are defined in Section 2 of the *Planning and Development Act 2000, as amended* as follows:

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

S.4.—(1) The following shall be exempted developments for the purposes of this Act—

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Assessment

Basis of Referral

The applicants are seeking a Section 5 Declaration as to whether the 2 no. velux windows (rooflights) that have been installed (one front & one rear) considered development, and if so, is it exempted development?

Planning and Development Act, 2000 (as amended)

In accordance with Sections 2 and 3(1) of the *Planning and Development Act 2000 (as amended)* (hereafter referred to as ‘the Act’), the items listed above do fall under the definition of ‘works’ as they are alterations to a structure and are, resultingly, characterised as ‘development’.

S.4(1) of the Act states that development consisting of works for the alteration of any structure, which affects only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures would be exempted development.

The construction of the 2 no. velux windows in the roof of the dwelling would not materially affect the appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures, and therefore, would be exempted under this section of the Act.

Recommendation

The following questions have been referred to the Planning Authority:

Whether the 2 no. velux windows (rooflights) that have been installed (one front & one rear) considered development, and if so, is it exempted development?

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council (Planning Authority) has concluded:

- (a) The installation of 2 no. velux windows in the curtilage of a dwellinghouse constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The said development the 2 no. velux windows is exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

Now therefore Clare County Council (Planning Authority), hereby decides that:

The construction of 2 no. velux windows installed in the front and rear of the existing dwelling at 13 Garden View, Clarecastle are considered development and are exempted development.



Áine Bourke

Executive Planner

Date: 08/11/2024



Gareth Ruane

Senior Executive Planner

Date: 08/11/2024



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Vicky Howard
C/o Deirdre Woodrow
O’Gorman Architectural Services
4 Showgrounds view, Ennis
Co. Clare
V95 W27H

16/10/2024

Section 5 referral Reference R24-81 – Vicky Howard

Are the 2 no. Velux windows (rooflights) that have been installed (one front & one rear) considered development and if so, are they exempted development?

A Chara,

I refer to your application received on 16th October 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúrtóireacht Forbairt Gheilleagrach

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



O'GORMAN ARCHITECTURAL SERVICES

4 Showgrounds View, Ennis, Co. Clare

Mobile: 085 120 7565

E-mail: woodrowdeirdre@yahoo.ie

15 October 2024

The Secretary
Planning Department
Clare County Council
Aras Contae an Chlair
New Road, Ennis
Co. Clare.



A Chara,

Re: Request for a Declaration on Development and Exempted Development by Vicky Howard in respect of works undertaken 13 Garden View, Clarecastle, Co.Clare V95 E5FN.

Enclosed please find 2 copies of the following documentation in respect of the above request;

- Completed Application Form
- Site Location Map, Scale 1:1000, site outlined in RED
- Extract of Site Layout Plan, Scale 1:500, site outlined in RED taken from Planning Ref. P04/1583
- Extract of Front & Rear House Type 'E' Elevations showing velux windows, Scale 1:100, taken from Planning Ref. P04/1583
- Request for Declaration under Section 5 Fee - €80.00

Is mise le meas

A handwritten signature in cursive script that reads "Deirdre Woodrow".

Deirdre Woodrow
I. Eng. B.Sc. (Hon.s), M.I.E.I.

cc Vicky Howard, 13 Garden View, Clarecastle, Co. Clare V95 E5FN

Enc.

P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

Planning Department,
Economic Development Directorate,
Clare County Council,
New Road, Ennis,
Co. Clare.
V95DXP2

Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie



Comhairle Contae an Chláir
Clare County Council

R24-81

**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000 (as amended))**

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

| 1. CORRESPONDENCE DETAILS. | |
|--|---|
| (a) Name and Address of person seeking the declaration | <p>VICKY HOWARD</p> <p>13 GARDEN VIEW</p> <p>CLARECASTLE</p> <p>CO. CLARE Eircode: V95 ESN</p> |
| (b) Telephone No.: | |
| (c) Email Address: | |
| (d) Agent's Name and address: | <p>DERDRE WOODROW</p> <p>O'GORMAN ARCHITECTURAL SERVICES</p> <p>4 SHOWGROUNDS VIEW, ENNIS</p> <p>CO. CLARE EIRCODE: V95 W27H</p> |



2. DETAILS REGARDING DECLARATION BEING SOUGHT

(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT
Note: only works listed and described under this section will be assessed.

Sample Question: Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?

ARE THE 2 NO. VELUX WINDOWS (ROOFLIGHTS) THAT HAVE BEEN INSTALLED (ONE FRONT + ONE REAR) CONSIDERED AS DEVELOPMENT & IF SO ARE THEY EXEMPTED DEV? DEV?

(b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

2 No. velux windows have been fitted in the roof - one @ front and one @ rear of the subject dwelling house in circa 2017

(c) List of plans, drawings etc. submitted with this request for a declaration:
(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

SITE LOCATION MAP, SHI NO. 4380-09, SCALE 1:1000
ANNOTATED EXTRACT OF SITE LAYOUT MAP (2 NO.) PLANNING REF P04/1583
ANNOTATE EXTRACT OF HOUSE TYPE 'E' GRANTED UNDER PLANNING REF P04/1583 SHOWING VELUX WINDOWS IN ROOF.

| 3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT | |
|---|---|
| (a) Postal Address of the Property/Site/Building for which the declaration sought: | 13 GARDENVIEW CLARECASTLE CO. CLARE V95 ESNJ |
| (b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority? | NO |
| (c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details): | OWNER |
| (d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i> | N/A |
| (e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?: | N/A |
| (f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i> | NO |
| (g) Were there previous planning application/s on this site? <i>If so please supply details:</i> | YES |
| (h) Date on which 'works' in question were completed/are likely to take place: | CIRCA 2017. |

SIGNED: Deirdre Woodcock

DATE: 15/10/2024

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

| | |
|------------------------------|----------------------|
| Date Received: | Fee Paid: |
| Date Acknowledged: | Reference No.: |
| Date Declaration made: | CEO No.: |
| Decision:..... | |

Planning Pack Map



Tailte Éireann

CENTRE COORDINATES:
ITM 534528,674081

PUBLISHED: 21/08/2024
ORDER NO.: 50417742_1

MAP SERIES: 1:1,000
MAP SHEETS: 4380-09

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Dublin 8,
Ireland.
D08F6E4

www.tailte.ie

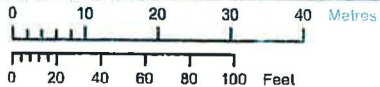
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OUTPUT SCALE: 1:1,000

CAPTURE RESOLUTION:
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LEGEND:
To view the legend visit www.tailte.ie and search for 'Large Scale Legend'





RAISED PLASTER
BAND FEATURE
TO WINDOW
SURROUND

PROJECTING COPPER
CLAD CANOPY

*Velux
Window*



No. 13 Garden View

**FRONT
ELEVATION
OPTION A**

HARDWOOD PANELED
DOOR WITH DOUBLE
GLAZED VISION PANEL

E

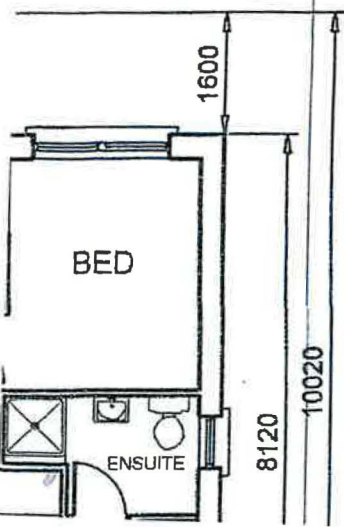
C



REAR

E

C





FABRICATED GATE WITH PAINTED FINISH

C

E



SELECTED COLOURFAST ALUMINIUM FASCIA/ SOFFITS

Velux Window

SELECTED BLUE/BLACK FLAT CONCRETE TILE ROOF FINISH

SELECTED COLOURFAST ALUMINIUM FASCIA/ SOFFITS

SMOOTH EXTERNAL PAINTED RENDER FINISH

SMOOTH EXTERNAL PAINTED RENDER PLINTH

SELECTED UPVC DOUBLE GLAZED DOORS

C

E

No. 13 Garden View

Dear Elevation

HARDWOOD BACK DOOR DOUBLE GLAZED VISION PA

